# STATE OF MICHIGAN

# COURT OF APPEALS

In the Matter of DAVIER CURRIE, DAVION CURRIE, PARSHA CURRIE, JAMESHA MCCOLOR, DEVIN CURRIE, IRREYONNA CURRIE, DESMOND CURRIE, DEVANTE CURRIE, and DESTINY CURRIE, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

TOMMIE WOODS,

Respondent-Appellant,

and

GLORIA R CURRIE, COREY WASHINGTON, PHILLIP HOWARD, DOMINQUE PITTS, and JIMMY DURHAM,

Respondents.

UNPUBLISHED
July 17, 2008

No. 279529
Wayne Circuit Court
Family Division
LC No. 06-458580-NA

Before: Owens, P.J., and O'Connell and Davis, JJ.

PER CURIAM.

Respondent Tommie Woods (respondent) appeals as of right the trial court's order of July 3, 2007 terminating his parental rights to his minor children, Parsha Curry and Devante Curry, pursuant to MCL 712A.19b(3)(a)(*ii*) and (k)(*i*). He argues that he was never properly served with the amended original petition for termination of his parental rights. He also argues that termination of his parental rights was clearly contrary to the best interest of his children. We affirm.

Whether a trial court has personal jurisdiction over a party is a question of law that this Court reviews de novo. *In re SZ*, 262 Mich App 560, 564; 686 NW2d 520 (2004); *In re Terry*, 240 Mich App 14, 20; 610 NW2d 563 (2000). We review a trial court's decision to terminate parental rights for clear error. *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999); MCR 3.977(J). If the trial court determines that petitioner established the existence of one or more

statutory grounds for termination by clear and convincing evidence, the trial court must terminate respondent's parental rights unless it determines that to do so is clearly not in the child's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 353-354; 612 NW2d 407 (2000).

Respondent first argues that he was not properly served with the amended original petition for termination of his parental rights. The entirety of the argument in his brief on this issue is as follows:

> The record is totally devoid of any statement or testimony regarding the Respondent-Appellant, Tommie Woods, being served either personally or by first class or registered mail. MCL 712A.13;MCR 3.920(B).

We would normally consider a one-sentence argument as such an inadequate briefing that it would constitute an abandonment of the issue. Nevertheless, we will consider the issue.

Respondent argues that he was not properly served with the amended original petition. However, there was more than one amended original petition filed in this matter. The first amended original petition was filed September 7, 2006. Respondent was given notice of this petition by the court. A second amended original petition was filed December 13, 2006. Respondent was not given notice of this petition. However, failure to serve him with the December 13, 2006 amended original petition did not result in a jurisdictional defect because the allegations against him concerning his children were identical to the September 7 petition, of which he had been given notice. Since the allegations were identical, it was unnecessary for the court to give him notice of the December petition.

In his one-sentence argument, respondent alleges that he was not properly served because the court record contained no statement or testimony that he was served either personally or by first class or registered mail. However, those are not the only methods by which he may be served. MCL 712A.13 and MCR 3.920(B)(4)(b) provide that if personal service is impracticable or cannot be achieved, service may be made by publication.

In October, the court attempted to serve respondent personally with a summons and petition at his last known address. The deputy sheriff was unable to serve him personally as the residence was vacant. Service was also attempted by certified and first-class mail. Service by certified mail was unsuccessful. (Service by first-class mail would not be sufficient for legal notice, but could have given him actual notice so that he might then contact the court and be served properly.) Having been unable to serve respondent personally or by certified mail, not knowing his whereabouts[1], and having found that personal service of the summons and petition was impracticable or could not be achieved, the court served respondent by publication for the January 30, 2007 adjudication and initial disposition (at which termination was requested in the petition).

[1] His mother told the court that she did not know his address, although he sometimes was at her house.

Service on respondent by publication for the January 30, 2007 hearing was sufficient legal notice to him of the adjudication and disposition at which his parental rights were terminated, because even though the January 30, 2007 hearing was adjourned for reasons other than service on respondent, it was adjourned on the record on January 30 to April 11, 2007. By adjourning the hearing on the record, respondent was given legal notice of the adjourned date since, having been properly served by publication with notice of the January 30, 2007 date, he was charged with knowledge of everything that happened in open court on that date, including the adjourned hearing date.

The April 11 hearing was continued until May 4 and concluded on June 1, 2007. At each hearing, the scheduling of the next hearing was made on the record, thus preserving the chain of notice to respondent, even though he was present at none of the hearings.

Therefore, respondent was given proper notice of the hearings to terminate his parental rights and, as a result, no error occurred.

Next, respondent does not argue that the statutory grounds for termination were not proven by clear and convincing evidence, but only that the trial court erred in its best interest determination. The evidence showed Parsha and Devante had resided for many years in the neglectful and abusive care of their mother without intervention by respondent. His child support obligation was in arrears, which contributed to the mother's inability to provide for his children. The maternal aunts and grandmother, who had provided care for Parsha and some of the mother's other children for several years, testified they had not seen respondent since Devante was a baby, 13 years earlier. During this proceeding, respondent did not make himself available to plan for his children or attend any court hearings in an effort to present evidence of a bond with his children. Therefore, the trial court did not err in determining that termination of respondent's parental rights was not clearly contrary to the children's best interests.

Affirmed.

/s/ Donald S. Owens
/s/ Peter D. O'Connell
/s/ Alton T. Davis